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U.S.D.C. Atlanta

DEC 29 2010

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES N. HATTEN, CLERK  
By:  Deputy Clerk

MARK DEES &  
CLAIRE DEES,

Plaintiffs,

v.

WASHINGTON MUTUAL BANK, F.A.,  
CHASE HOME FINANCE, LLC,  
JPMORGAN CHASE, N.A., &  
JOHN DOES 1-1000,

Defendants.

CIVIL ACTION NO.

**1:10-CV-4235**

**NOTICE OF REMOVAL**

Defendants Chase Home Finance, LLC ("Chase Finance") and JPMorgan Chase Bank, N.A. (improperly sued as "JPMorgan Chase, N.A.") ("Chase Bank") (collectively, "Defendants") hereby file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice, Defendants state as follows:

**PROCEDURAL BACKGROUND**

1. Plaintiffs Mark and Claire Dees ("Plaintiffs") purportedly commenced a civil action against Defendants on November 23, 2010 by filing a "Petition to

Quiet Title” (the “Complaint”) in the Superior Court of Cobb County, State of Georgia, Civil Action File No. 10-1-11419-49 (the “State Court Action”).<sup>1</sup>

### **PROCEDURAL PREREQUISITES**

2. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is being filed within thirty (30) days after Defendants first received, through service or otherwise, a copy of Plaintiffs’ Complaint in the State Court Action.<sup>2</sup>

3. As required by 28 U.S.C. § 1446, true and correct copies of all process and pleadings served upon Defendants in the State Court Action are attached hereto as Composite Exhibit A.

4. A removal notice and a copy of the instant Notice of Removal shall be filed with the Clerk of the Superior Court of Cobb County, State of Georgia, and shall be served on Plaintiffs. A true and correct copy of the removal notice filed

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<sup>1</sup> The State Court Action is related to two other state court lawsuits filed by the Plaintiffs against Defendants on November 23, 2010 in Gwinnett Superior Court (Civil Action File Nos. 2010-A-10512-10 and 2010-A-10513-10). Indeed, these other actions contain similar allegations and request similar and/or identical relief. On December 28, 2010, Defendants removed the Gwinnett Superior Action (File No. 2010-A-10512-10) to this Court, which was assigned Civil Action No. 1:10-CV-4218 by this Court. The State Court Action should thus be designated as a “related case.”

<sup>2</sup> Indeed, Plaintiffs do not even purport to have served Chase Bank or Chase Finance until November 29, 2010.

with the Clerk of the Superior Court for Cobb County, State of Georgia is attached hereto as Exhibit B.

5. Removal to this Court in particular is proper pursuant to 28 U.S.C. §§ 1441 and 1446 because the State Court Action is currently pending in this Judicial District.

### **DIVERSITY JURISDICTION**

8. Removal of this action is proper under 28 U.S.C. § 1332 because the parties' citizenships are fully diverse and the amount in controversy for Plaintiffs' claims is more than \$75,000 exclusive of interest and costs.

#### ***Complete Diversity of Citizenship***

9. Plaintiffs are both citizens of Georgia. (Compl. at 1.)

10. Chase Finance is a limited liability company whose sole member is Chase Home Finance, Inc. "[A] limited liability company is a citizen of any state of which a member of the company is a citizen." *Internet Bus. Solutions, Inc. v. Britt Worldwide, LLC*, 4:07-CV-129 HL, 2007 WL 2583718, \*1 (M.D. Ga. Sept. 4, 2007) (quoting *Rolling Greens, MHP, L.P. v. Comcast SCH Holdings, LLC*, 374 F.3d 1020, 1022 (11th Cir. 2004)). A corporation is "a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." 28 U.S.C. § 1332. Chase Home Finance, Inc. was incorporated under

the laws of Delaware and has its principal place of business in New Jersey.

Accordingly, both Chase Home Finance, Inc. and Chase Finance are citizens of New Jersey and Delaware.

11. Chase Bank is a national banking association. A national banking association is considered a citizen of “the State designated in its articles of association as its main office.” *Wachovia Bank v. Schmidt*, 546 U.S. 303, 318 (2006); *see also* 28 U.S.C. § 1348. Chase Bank’s articles of incorporation designate Columbus, Ohio as its main office. Accordingly, Chase Bank is a citizen of the State of Ohio.

12. Accordingly, there exists complete diversity of citizenship between Plaintiffs and Defendants.<sup>3</sup>

### ***Amount In Controversy***

13. Plaintiffs’ Complaint does not state the amount in controversy. (*See* Compl.) Plaintiffs’ Complaint does, however, seek to enjoin Defendants from foreclosing on a piece of real property located at 517 Pineland Circle, SW,

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<sup>3</sup> Although Washington Mutual Bank, F.A. (“WaMu”) is also named as a Defendant in the State Court Action, WaMu no longer exists and is thus not a proper party to this action. *See, e.g., Yeomalakis v. F.D.I.C.*, 562 F.3d 56, 59 (1st Cir. 2009) (explaining that WaMu was closed in 2008 after it failed). Accordingly, neither WaMu’s citizenship nor its consent are relevant for purposes of this Notice of Removal.

Mableton, Georgia 30126, which property Plaintiffs purchased, at least in part, with \$110,400 in loans. (*See* Compl. at 3 and Security Deed attached thereto at 1, 3.) Accordingly, the value of the Property exceeds \$75,000.

14. Where a plaintiff seeks injunctive relief related to a foreclosure sale, “the value of the property determines the financial value at stake” for removal purposes. *See Roper v. Saxon Mortg. Servs., Inc.*, No. 1:09-CV312, 2009 WL 1259193, \*2 (N.D. Ga. May 5, 2009) (citing *Waller v. Prof'l Ins. Corp.*, 296 F.2d 545, 547 (5th Cir. 1961)). Accordingly, the amount in controversy, based on Plaintiffs’ allegations and the exhibits attached to Plaintiffs’ Complaint exceeds \$75,000, exclusive of interest and costs.

**WHEREFORE**, for the foregoing reasons, Chase Bank and Chase Finance respectfully request that the State Court Action proceed in this Court and that the State Court Action be marked as a “related case” to Civil Action No. 1:10-CV-4218.

Respectfully submitted this 29<sup>th</sup> day of December, 2010.

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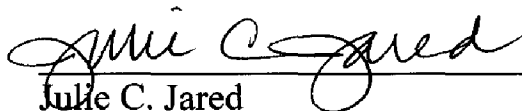
**CERTIFICATE OF SERVICE**

This certifies that I have this day served a true and correct copy of the within  
and foregoing **NOTICE OF REMOVAL OF ACTION** upon Plaintiffs by U.S.

Mail, postage pre-paid, addressed as follows:

Mark & Claire Dees, *Pro Se*  
400 Peachtree Industrial Blvd., Suite 5 #518  
Suwanee, GA 30024

This 29<sup>th</sup> day of December, 2010.

  
Julie C. Jared